

1 AN ACT concerning aging.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adult Protective Services Act is amended by
5 changing Section 7.5 as follows:

6 (320 ILCS 20/7.5)

7 Sec. 7.5. Health Care Worker Registry.

8 (a) Reporting to the Registry. The Department on Aging
9 shall report to the Department of Public Health's Health Care
10 Worker Registry the identity and administrative finding of a
11 verified and substantiated decision of abuse, neglect, or
12 financial exploitation of an eligible adult under this Act that
13 is made against any caregiver, including consultants and
14 volunteers, employed by a provider licensed, certified, or
15 regulated by, or paid with public funds from, the Department of
16 Public Health, Healthcare and Family Services, or Human
17 Services, or the Department on Aging. For uncompensated or
18 privately paid caregivers, the Department on Aging shall report
19 only a verified and substantiated decision of significant
20 abuse, neglect, or financial exploitation of an eligible adult
21 under this Act. An administrative finding placed in the
22 Registry shall preclude any caregiver from providing direct
23 access or other services, including consulting and

1 volunteering, in a position with a provider that is licensed,
2 certified, or regulated by, or paid with public funds from or
3 on behalf of, the State of Illinois or any Department thereof,
4 that permits the caregiver direct access to an adult aged 60 or
5 older or an adult, over 18, with a disability or to that
6 individual's living quarters or personal, financial, or
7 medical records.

8 (b) Definitions. As used in this Section:

9 "Direct care" includes, but is not limited to, direct
10 access to an individual, his or her living quarters, or his or
11 her personal, financial, or medical records for the purpose of
12 providing nursing care or assistance with feeding, dressing,
13 movement, bathing, toileting, other personal needs and
14 activities of daily living, or assistance with financial
15 transactions.

16 "Privately paid caregiver" means any caregiver who has been
17 paid with resources other than public funds, regardless of
18 licensure, certification, or regulation by the State of
19 Illinois and any Department thereof. A privately paid caregiver
20 does not include any caregiver that has been licensed,
21 certified, or regulated by a State agency, or paid with public
22 funds.

23 "Significant" means a finding of abuse, neglect, or
24 financial exploitation as determined by the Department that (i)
25 represents a meaningful failure to adequately provide for, or a
26 material indifference to, the financial, health, safety, or

1 medical needs of an eligible adult or (ii) results in an
2 eligible adult's death or other serious deterioration of an
3 eligible adult's financial resources, physical condition, or
4 mental condition.

5 "Uncompensated caregiver" means a caregiver who, in an
6 informal capacity, assists an eligible adult with activities of
7 daily living, financial transactions, or chore housekeeping
8 type duties. "Uncompensated caregiver" does not refer to an
9 individual serving in a formal capacity as a volunteer with a
10 provider licensed, certified, or regulated by a State agency.

11 (c) Access to and use of the Registry. Access to the
12 Registry shall be limited to licensed, certified, or regulated
13 providers by the Department of Public Health, Healthcare and
14 Family Service, or Human Services, or the Department on Aging.
15 The State of Illinois, any Department thereof, or a provider
16 licensed, certified, or regulated, or paid with public funds
17 by, from, or on behalf of the Department of Public Health,
18 Healthcare and Family Services, or Human Services, or the
19 Department on Aging, shall not hire or compensate any person
20 seeking employment, retain any contractors, or accept any
21 volunteers to provide direct care without first conducting an
22 online check of the person through the Department of Public
23 Health's Health Care Worker Registry. The provider shall
24 maintain a copy of the results of the online check to
25 demonstrate compliance with this requirement. The provider is
26 prohibited from hiring, compensating, or accepting a person,

1 including as a consultant or volunteer, for whom the online
2 check reveals a verified and substantiated claim of abuse,
3 neglect, or financial exploitation, to provide direct access to
4 any adult aged 60 or older or any adult, over 18, with a
5 disability. Additionally, a provider is prohibited from
6 retaining a person for whom they gain knowledge of a verified
7 and substantiated claim of abuse, neglect, or financial
8 exploitation in a position that permits the caregiver direct
9 access to provide direct care to any adult aged 60 or older or
10 any adult, over 18, with a disability or direct access to that
11 individual's living quarters or personal, financial, or
12 medical records. Failure to comply with this requirement may
13 subject such a provider to corrective action by the appropriate
14 regulatory agency or other lawful remedies provided under the
15 applicable licensure, certification, or regulatory laws and
16 rules.

17 (d) Notice to caregiver. The Department on Aging shall
18 establish rules concerning notice to the caregiver in cases of
19 abuse, neglect, or financial exploitation.

20 (e) Notification to eligible adults, guardians, or agents.
21 As part of its investigation, the Department on Aging shall
22 notify an eligible adult, or an eligible adult's guardian or
23 agent, that a caregiver's name may be placed on the Registry
24 based on a finding as described in subsection (a) ~~(a-1)~~ of this
25 Section.

26 (f) Notification to employer. A provider licensed,

1 certified, or regulated by the Department of Public Health,
2 Healthcare and Family Services, or Human Services, or the
3 Department on Aging shall be notified of an administrative
4 finding against any caregiver who is an employee, consultant,
5 or volunteer of a verified and substantiated decision of abuse,
6 neglect, or financial exploitation of an eligible adult under
7 this Act. If there is an imminent risk of danger to the
8 eligible adult or an imminent risk of misuse of personal,
9 medical, or financial information, the caregiver shall
10 immediately be barred from direct access to the eligible adult,
11 his or her living quarters, or his or her personal, financial,
12 or medical records, pending the outcome of any challenge,
13 criminal prosecution, or other type of collateral action.

14 (g) Caregiver challenges. The Department on Aging shall
15 establish, by rule, procedures concerning caregiver
16 challenges.

17 (h) Caregiver's rights to collateral action. The
18 Department on Aging shall not make any report to the Registry
19 if a caregiver notifies the Department in writing, including
20 any supporting documentation, that he or she is formally
21 challenging an adverse employment action resulting from a
22 verified and substantiated finding of abuse, neglect, or
23 financial exploitation by complaint filed with the Illinois
24 Civil Service Commission, or by another means which seeks to
25 enforce the caregiver's rights pursuant to any applicable
26 collective bargaining agreement. If an action taken by an

1 employer against a caregiver as a result of a finding of abuse,
2 neglect, or financial exploitation is overturned through an
3 action filed with the Illinois Civil Service Commission or
4 under any applicable collective bargaining agreement after
5 that caregiver's name has already been sent to the Registry,
6 the caregiver's name shall be removed from the Registry.

7 (i) Removal from Registry. At any time after a report to
8 the Registry, but no more than once in each successive 3-year
9 period thereafter, for a maximum of 3 such requests, a
10 caregiver may write to the Director of the Department on Aging
11 to request removal of his or her name from the Registry in
12 relationship to a single incident. The caregiver shall bear the
13 burden of showing cause that establishes, by a preponderance of
14 the evidence, that removal of his or her name from the Registry
15 is in the public interest. Upon receiving such a request, the
16 Department on Aging shall conduct an investigation and consider
17 any evidentiary material provided. The Department shall issue a
18 decision either granting or denying removal within 60 calendar
19 days, and shall issue such decision to the caregiver and the
20 Registry. The waiver process at the Department of Public Health
21 does not apply to Registry reports from the Department on
22 Aging. The Department on Aging shall establish standards for
23 the removal of a name from the Registry by rule.

24 (j) Referral of Registry reports to health care facilities.
25 In the event an eligible adult receiving services from a
26 provider agency changes his or her residence from a domestic

1 living situation to that of a health care facility, the
2 provider agency shall use reasonable efforts to promptly inform
3 the health care facility and the appropriate Regional Long Term
4 Care Ombudsman about any Registry reports relating to the
5 eligible adult. For purposes of this Section, a health care
6 facility includes, but is not limited to, any residential
7 facility licensed, certified, or regulated by the Department of
8 Public Health, Healthcare and Family Services, or Human
9 Services.

10 (k) The Department on Aging shall have immunity, except for
11 willful or wanton misconduct, from any liability, civil or
12 criminal, for reporting information to the Health Care Worker
13 Registry.

14 (Source: P.A. 98-49, eff. 1-1-14; revised 11-12-13.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.